

REMARKS

Upon entry of the present amendment, the recitations of claim 5 will have been incorporated into each of independent claims 1 and 9. Claim 5 will accordingly have been canceled. Additionally, the language of claims 1-4 and 6-10 will have been amended so as to enhance clarity as well as to overcome and render moot the Examiner's objections thereto and rejection thereof under 35 U.S.C. § 112, second paragraph asserted against the language of the claims pending herein.

At least in view of the herein contained amendments and remarks, Applicants respectfully submit that the asserted objections and rejections have been overcome and that the present application is now in condition for allowance. An official communication indicating the allowability of all the claims pending in the present application is thus submitted to be appropriate. Accordingly, Applicants respectfully request an indication to such effect, in due course. Such action is now believed to be appropriate and proper and is thus respectfully requested.

Initially, Applicants respectfully thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119 as well as for confirming that certified copies of the foreign priority documents, upon which the above noted claim for foreign priority is based, have been received. In this regard, since the present application is a national stage application under 35 U.S.C. § 371, Applicants assume that the priority documents have been received from the International Bureau.

Applicants additionally note with appreciation the Examiner's indication that the drawings filed on April 19, 2006 have been accepted. However, Applicants are somewhat puzzled by the Examiner's indication, (on the PTOL-326 Form) that the specification is

objected to, because no specific objection to the specification is contained in the body of the Official Action.

Applicants' further note with appreciation, the Examiner's indication, that an initialed and dated copy of the PTO-1449 Form, submitted on July 18, 2006, is attached to the Official Action. However, Applicants note that all of the references listed thereon (i.e. Japanese patent publications and English language abstracts thereof) have been lined through, which appears to indicate that these documents have not been considered by the Examiner. In this regard, Applicants respectfully submits that all of the documents noted in the Information Disclosure Statement filed in the present publication on July 18, 2006 and listed on the PTO 1449 form have been cited in full compliance with 37 C.F.R. § 1.97 and 1.98. Accordingly, Applicants respectfully submit that consideration of these documents by the Examiner is appropriate and is thus respectfully requested.

Further in this regard, Applicants respectfully submits that the Examiner has set forth no basis or reasons, in the outstanding Official Action, as to why these documents were lined through on PTO-1449 Form. Thus, should the Examiner be of the opinion that there was some informality or deficiency in the citation of these documents, the Examiner is respectfully requested to contact Applicants' undersigned representative so that this matter can be resolved.

Applicants respectfully thank the Examiner for the courtesies extended to Applicants' representative in a brief telephone discussion conducted on November 21, 2008, as well as for the Examiner's prompt forwarding, to Applicants, of a revised PTO 892 Form listing all of the documents cited in the outstanding Official Action by the Examiner.

In the outstanding Official Action, the Examiner objected to claim 3 because of a language informality. Claims 1 and 2 were further rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Examiner noted a term which lacked antecedent basis and another language informality.

By the present response, Applicants have amended the language of all the claims to ensure that they clearly and accurately describe Applicants' invention with terminology that is definite and that the claims are in full compliance with 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the outstanding objection to the claim language as well as the rejection of the claims under 35 U.S.C. § 112, second paragraph.

In the outstanding Official Action, claims 1 and 4 were rejected under 35 U.S.C. § 102(e) as being anticipated by HORI (U.S. Patent Application Publication No. (2004/0252691)). Claims 9 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over CHEN et al. (U.S. Patent No. 5,831,975) in view of ACHARYA et al. (U.S. Patent No. 5,503,559). Claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over HORI and further in view of KODIALAM (U.S. Patent No. 6,778,531) and further in view of MILLER et al. (U.S. Patent Application Publication No. 2005/0100016). Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over HORI further in view of KODIALAM. Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over CHEN et al. and ACHARYA and further in view of KODIALAM.

In the outstanding Official Action, the Examiner objected to claims 5-7 for depending upon a rejected base claim. However, the Examiner indicated that these claims would be

allowable if rewritten into independent form including all the limitations of any intervening claims.

In view of the herein contained amendments and remarks, Applicants respectfully submits that each of the outstanding rejections set forth against the claims in the present publication is no longer appropriate.

In particular, by the present response, Applicants have incorporated the limitations of objected to claim 5 into each of independent claims 1 and 9. Accordingly, at least based upon the Examiner's indication of allowable subject matter with respect to claim 5, Applicants respectfully submit that claims 1 and 9, as well as all of the claims dependent thereon, have now been rendered allowable.

By rewriting the subject matter of an objected to claim into each of the independent claims, Applicants do not in any manner acquiesce in the propriety of the Examiner's rejection. Rather, Applicants have incorporated the subject matter of the objected to claim merely in order to expedite the prosecution of the present application and to afford Applicants a measure of protection for the invention disclosed in the present application.

Moreover, Applicants note that the HORI et al. document, relied upon in the rejection of several of the claims in the present application, was filed on June 10, 2004. The present application claims priority from, inter alia, Japanese Patent Application No. 2003-361524, which was filed on October 22, 2003. Thus, HORI et al. might not even be available as a reference against the claims of the present application. Nevertheless, and as noted above, Applicants have chosen to rewrite the limitations of an objected to claim into each of the independent claims so as to expedite the allowance of the present application.

In view of the above, Applicants respectfully request reconsideration and withdrawal of each of the outstanding objections and rejections, together with an indication of the allowability of all of the claims pending in the present publication, in due course.

SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so. Applicants have amended the claims to incorporate the recitations of an objected to claim into each of the independent claims. Applicants have also explicitly noted that such amendment to the claims does not constitute any acquiescence in the propriety of any the Examiner's asserted rejections.


Applicants have additionally amended the claim language to enhance clarity as well as to eliminate any basis for the Examiner's objection thereto and rejection thereof under 35 U.S.C. § 112, second paragraph. Applicants have further requested that the Examiner confirm his consideration of each of the documents cited in the Information Disclosure Statement filed in the present application on July 18, 2006.

Accordingly, Applicants respectfully request an indication of the allowability of all of the claims in present application, in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
Takahiro YONEDA et al.



Bruce H. Bernstein
Reg. No. 29027

William Pieprz
Reg. No. 33,630

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191